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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	91203884
Party	Plaintiff Ennis, Inc.
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Submission	Motion to Amend Pleading/Amended Pleading
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Signature	/s/Scott A. Meyer
Date	09/14/2012
Attachments	Registrant's Resp to Mot for Leave to Exceed Page Limit in 2nd Am Petition to Cancel.pdf (4 pages)(45331 bytes)

In Re: Application Serial No. 85/324,443
For the Mark: COLOR WARS
Filed: May 18, 2011
Published in the Official Gazette: January 17, 2012

Ennis, Inc.

Opposer,

V.

Joel L. Beling d/b/a Supa Characters Pty. Ltd.

Applicant.

Opposition No. 91203884

Joel L. Beling d/b/a Supa Characters Pty. Ltd.,

Petitioner,

V.

Ennis, Inc.

Registrant.

Cancellation No. 92055374

Registration No. 3,372,884
Mark: COLORWORX

**REGISTRANT’S RESPONSE TO PETITIONER’S MOTION FOR LEAVE TO EXCEED
THE PAGE LIMIT IN ITS SECOND AMENDED PETITION TO CANCEL**

COMES NOW, Registrant, Ennis, Inc. (“Registrant”), by and through its undersigned counsel and hereby files this Response to Petitioner’s Motion for Leave to Exceed the Page Limit in its Second Amended Petition to Cancel (hereinafter, the “Motion for Leave”) and would show the Board as follows:

1. Following the filing of Registrant’s Motion to Dismiss Petitioner’s Second Amended Petition to Cancel, Petitioner subsequently filed his Motion for Leave [Doc. #11-Cancellation].¹ Petitioner filed his Motion for Leave *six weeks after* he filed his Second Amended Petition to Cancel (Second Amended Petition to Cancel filed July 27, 2012). *See* [Doc. #18]. Furthermore, both parties have filed several pleadings since the date of filing of the Second Amended Petition to Cancel.

2. Notwithstanding the Board’s admonitions and directives contained in its Orders, Petitioner’s Motion for Leave should be denied because: (A) the Motion for Leave was not timely filed, (B) Petitioner did not confer with Registrant’s counsel prior to filing his Motion for Leave, (C) the Motion for Leave violates the Board’s Order to file all subsequent motions and pleadings in the “parent case”—i.e., the Opposition Proceeding.

A. Petitioner Failed to Timely File the Motion

3. In the rare occasions that motions for leave are actually necessary, such motions are advised to be filed *before* the date the brief is due in order to obtain a ruling by the Board on the motion before presumptuously filing motions and briefs—otherwise the brief should be given no consideration. *See* 37 C.F.R. § 2.128(b); TTAB Rule 537 (emphasis added). Petitioner failed to timely file his Motion for Leave, filing it *six weeks after* Petitioner had already filed its Second Amended Petition to Cancel.

¹ Despite TTAB’s Order directing the parties to file all documents in the consolidated Opposition No. 91203884, Beling has filed his Response to the Motion to Dismiss and his Motion to Exceed Page Limit for such Response in the Cancellation No. 92055374.

B. Petitioner Did Not Confer with Registrant's Counsel Prior to Filing his Motion for Leave

4. Registrant hereby incorporates the argument contained in paragraph 4 of Registrant's Reply in Support of Motion to Dismiss. See [Doc. #21].

C. Petitioner Ignores the Board's Order to File his Motion with the Parent Case

5. Registrant hereby incorporates the argument contained in paragraph 5 of Registrant's Reply in Support of Motion to Dismiss. See [Doc. #21].

PRAYER

WHEREFORE, PREMISES CONSIDERED, Registrant prays that the Board deny Registrant's Motion for Leave to Exceed the Page Limit in its Second Amended Petition to Cancel and that Registrant be awarded all other relief to which it is entitled, both at law and in equity.

Dated: September 14, 2012

Respectfully submitted,

CHALKER FLORES, LLP

By: /s/Scott A. Meyer

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ATTORNEYS FOR REGISTRANT

CERTIFICATE OF SERVICE

I hereby certify that a true copy of the foregoing REGISTRANT'S RESPONSE TO PETITIONER'S MOTION FOR LEAVE TO EXCEED THE PAGE LIMIT IN ITS SECOND AMENDED PETITION TO CANCEL was served on all counsel of record, this the 14th day of September, 2012, by sending the same via electronically through the Electronic System for Trademark Trials and Appeal ("ESTTA") and electronic mail service.

/s/Scott A. Meyer

Scott A. Meyer